

**REMARKS**

Claims 1–19, 21–24, and 28–33 are pending in this application. Non-elected claims 8 and 21–24 have been withdrawn from consideration by the Examiner. By this Amendment, claims 1 and 32 are amended, and claim 20 is canceled. Support for the amendments to the claims may be found, for example, in original claim 20 and in the specification. No new matter is added.

Entry of the amendments is proper under 37 CFR §1.116 because the amendments:

(a) place the application in condition for allowance for the reasons discussed herein; (b) do not raise any new issue requiring further search and/or consideration, as the amendments amplify issues previously discussed throughout prosecution; (c) do not present any additional claims without canceling a corresponding number of finally rejected claims; and (d) place the application in better form for appeal, should an appeal be necessary. The amendments are necessary and were not earlier presented because they are made in response to arguments raised in the final rejection. Entry of the amendments is thus respectfully requested.

**I.      Rejections Under 35 U.S.C. §103****A.      Illum**

The Office Action rejects claims 1–3, 9–13, 16–20, 28, 29, 31, and 32 under 35 U.S.C. §103(a) over U.S. Patent No. 4,904,479 to Illum (hereinafter "Illum"). Applicants respectfully traverse the rejection.

By this Amendment, claim 1 is amended to recite, "wherein said amphiphilic hyaluronan is used as emulsion stabilizing agent during the production of the particle by emulsion/solvent evaporation techniques so that the hydrophobic groups are anchored and extend in the polymeric core of the particle."

The amphiphilic hyaluronan is aimed to be located at the water/organic phase interface during the production of the particle so as to stabilize the emulsion. When the

organic solvent is evaporated off, the amphiphilic hyaluronan remains attached to the particles thus formed due to the fact that the hydrophobic groups of the hyaluronan are anchored and extend into the organosoluble polymer core of the particle. The anchoring of the hydrophobic groups of the hyaluronan occurs therefore during the production of the particle. As discussed in the Declaration by Edith Dellacherie, the claimed invention cannot be obtained by the process taught by Illum. The Declaration also states that the method taught in the Applicants' specification is the only method known to the Declarant for obtaining the claimed molecules where the hydrophobic portions are anchored in the core of the particles and not on the surface of the particles.

As noted by the Examiner, Illum fails to disclose a coating penetrating beneath the surface of the core (e.g., into the core) of a particle and instead discloses a mere interaction of the coating with the surface of the particle core.

To the contrary, according to the claimed invention, the hydrophobic groups of the hyaluronan extend into the particle core.

Moreover, as now recited in claim 1, the claimed particle is produced by a particular process and the anchoring of the hyaluronan into the particle core occurs during this process.

To the contrary, in Illum's disclosure, the coating is adsorbed on the particle after its production and thus can not extend into its core.

For at least these reasons, Illum would not have rendered obvious claim 1. Claims 2, 3, 9–13, 16–19, 28, 29, and 31–33 variously depend from claim 1 and, thus, also would not have been rendered obvious by Illum. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

**B. Illum, della Valle, McMurry**

The Office Action rejects claims 4–7 under 35 U.S.C. §103(a) over Illum in view of U.S. Patent No. 4,851,521 to della Valle et al. ("della Valle"), and J. McMurry, Organic Chemistry, 3<sup>rd</sup> Ed. ("McMurry"). Applicants respectfully traverse the rejection.

The Office Action provides no suggestion or basis for concluding that della Valle and McMurry cure the above-noted deficiencies of Illum with respect to claim 1. Accordingly, claims 4–7 are patentably distinct from the asserted combination of Illum, della Valle, and McMurry at least because of their dependence from claim 1, as well as on the basis of their additional limitations. Reconsideration and withdrawal of the rejection are respectfully requested.

**C. Illum and Lee**

The Office Action rejects claims 14 and 15 under 35 U.S.C. §103(a) over Illum in view of U.S. Patent No. 5,753,234 to Lee et al. ("Lee"). Applicants respectfully traverse the rejection.

The Office Action provides no suggestion or basis for concluding that Lee cures the above-noted deficiencies of Illum with respect to claim 1. Accordingly, claims 14 and 15 are patentably distinct from the asserted combination of Illum and Lee at least because of their dependence from claim 1, as well as on the basis of their additional limitations. Reconsideration and withdrawal of the rejection are respectfully requested.

**II. Rejoinder**

Applicants also respectfully request rejoinder of non-elected claims 8 and 21–24. Because claims 8 and 21–24 are product claims that depend from claim, they include all the limitations of claim 1, and are eligible for rejoinder with the elected product claims when the product claims are found allowable. *See MPEP §821.04.* Because the product claims are

believed to be allowable for at least the reasons presented above, Applicants respectfully request withdrawal of the Restriction Requirement and rejoinder of claims 8 and 21–24.

**III. Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,

  
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WPB:JRB

Attachment:  
Petition for Extension of Time

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